

§ 5.29

§ 5.29 Additional rulemaking proceedings.

The Secretary may initiate any further rulemaking proceedings that he finds necessary or desirable. For example, he may invite interested persons to present oral arguments, participate in conferences, appear at informal hearings, or participate in any other proceeding.

§ 5.31 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. As a fact-finding proceeding, each hearing is nonadversary and there are no formal pleadings or adverse parties. Any rule issued in a case in which a hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Secretary designates a representative to conduct any hearing held under this part. The General Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 5.33 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the General Counsel. The rule is then submitted to the Secretary for his consideration. If the Secretary adopts the rule, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

§ 5.35 Procedures for direct final rulemaking.

(a) Rules that the Secretary judges to be noncontroversial and unlikely to result in adverse public comment may be published as direct final rules. These include noncontroversial rules that:

(1) Affect internal procedures of the Office of the Secretary, such as filing requirements and rules governing inspection and copying of documents,

(2) Are nonsubstantive clarifications or corrections to existing rules,

(3) Update existing forms,

(4) Make minor changes in the substantive rules regarding statistics and reporting requirements,

(5) Make changes to the rules implementing the Privacy Act, and

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(6) Adopt technical standards set by outside organizations.

(b) The FEDERAL REGISTER document will state that any adverse comment or notice of intent to submit adverse comment must be received in writing by the Office of the Secretary within the specified time after the date of publication and that, if no written adverse comment or written notice of intent to submit adverse comment is received, the rule will become effective a specified number of days after the date of publication.

(c) If no written adverse comment or written notice of intent to submit adverse comment is received by the Office of the Secretary within the specified time of publication in the FEDERAL REGISTER, the Office of the Secretary will publish a notice in the FEDERAL REGISTER indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

(d) If the Office of the Secretary receives any written adverse comment or written notice of intent to submit adverse comment within the specified time of publication in the FEDERAL REGISTER, a notice withdrawing the direct final rule will be published in the final rule section of the FEDERAL REGISTER and, if the Office of the Secretary decides a rulemaking is warranted, a notice of proposed rulemaking will be published in the proposed rule section of the FEDERAL REGISTER.

(e) An “adverse” comment for the purpose of this subpart means any comment that the Office of the Secretary determines is critical of the rule, suggests that the rule should not be adopted, or suggests a change that should be made in the rule. A comment suggesting that the policy or requirements of the rule should or should not also be extended to other Departmental programs outside the scope of the rule is not adverse.

[69 FR 4458, Jan. 30, 2004]

APPENDIX A TO PART 5

Pursuant to § 5.1(b), the following officials of the Office of the Secretary of Transportation are authorized to conduct rulemaking proceedings under this part, as specified in this appendix: